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December 20, 2002

VIA ELECTRONIC FILING

Marlene Dortch, Secretary
Federal Communications Commission
The Portals, 12th Street Lobby
445 12th St., SW, Counter TW-A325
Washington, DC 20554

Re: Ex Parte Presentation
IB Docket No. 01-185

Dear Ms. Dortch:

On Thursday, December 19, 2002, David Otten, Chairman & CEO of Celsat America, Inc. ("Celsat"), together with John Quale and the undersigned of this firm, met with Commissioner Kathleen Abernathy and her legal advisor, John Branscome. At the meeting, Celsat discussed the gating rules needed to ensure that MSS with an ancillary terrestrial component satisfies the Commission's definition of "ancillary" set forth in the *Flexible Use NPRM*. In this regard, Celsat distributed the attached hand-out at the meeting.

In accordance with Section 1.49(f)(1) of the Commission's rules, an electronic version of this letter is being submitted for inclusion in the docket listed above. Please direct any questions concerning this matter to the undersigned.

Very truly yours,

/s/ Brian Weimer

Enclosure

cc: Commissioner Kathleen Abernathy
John Branscome

**PROPOSED GATING RULES TO ENSURE THAT
MSS WITH AN ANCILLARY TERRESTRIAL COMPONENT
REMAINS PRIMARILY A SATELLITE SERVICE**

In the *Notice of Proposed Rulemaking* in this proceeding, the Commission stated that it "intend[s] the term ancillary terrestrial services to refer strictly to services provided by MSS operators that are integrated with the satellite network, use assigned MSS frequencies, and are provided for the purpose of augmenting signals in areas where the principal service signal, the satellite signal is attenuated."¹ Celsat believes the Commission can ensure that the ancillary terrestrial component ("ATC") for MSS licensees will remain truly "ancillary" to the satellite service if the following two conditions are met:

1. CONTINUOUS SATELLITE COVERAGE. The MSS operator must provide "space segment service covering all 50 states, Puerto Rico, and the U.S. Virgin Islands 100% of the time"²; and
2. SATELLITE-CAPABLE PHONE. Every phone in the MSS licensee's network must be capable of communicating directly through both the MSS licensee's satellite(s) and the ATC ground tower(s).

¹ *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band*, 16 FCC Rcd 15532, ¶ 30 (August 17, 2001).

² *Id.* at ¶ 32.